



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2015-0380; FRL-9933-65-Region 5]

Air Plan Approval; Indiana; SO₂ Revision for Walsh and Kelly

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request submitted by the Indiana Department of Environmental Management (IDEM) on June 1, 2015, to revise the Indiana state implementation plan (SIP) for sulfur dioxide (SO₂). The revision updates information regarding Walsh and Kelly, Incorporated, a hot mix asphalt plant located in Griffith, Lake County, Indiana. Walsh and Kelly, Incorporated, is replacing its aggregate drum dryer. The revision does not change any of the SO₂ control requirements and will not result in an increase in SO₂ emissions.

DATES: This rule is effective on **[insert date 60 days after date of publication in the Federal Register]**, unless EPA receives adverse written comments by **[insert date 30 days after date of publication in the Federal Register]**. If EPA receives adverse comments, EPA will publish a timely withdrawal of the

rule in the Federal Register and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No.

EPA-R05-OAR-2015-0380, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. Email: blakley.pamela@epa.gov
3. Fax: (312) 692-2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2015-0380. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov,

including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain

other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, (312) 886-6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)886-6031, hatten.charles@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. General Information.
- II. What is EPA Approving?
- III. What Are the Changes From the Current Rule?
- IV. What Action is EPA Taking?
- V. Incorporation by Reference.
- IV. Statutory and Executive Order Reviews.

I. General Information.**A. Does this action apply to me?**

This action only applies to Walsh and Kelly, Incorporated, located in Griffith, Lake County, Indiana.

B. Has Public Notice Been Provided?

IDEM published a public notice of the revisions to the SIP on February 4, 2015, to update its SO₂ rules that apply specifically to Walsh and Kelly, Incorporated. A public hearing on the revisions was held on March 11, 2015. There were no comments received.

II. What is EPA Approving?

EPA is approving a revision to Indiana's SO₂ SIP for Walsh and Kelly, Incorporated, a hot mix asphalt plant located in Griffith, Lake County, Indiana.

Indiana's SO₂ emission limits for Lake County are contained in Title 326 of the Indiana Administrative Code (IAC) in rule 7-4.1 (326 IAC 7-4.1). The SO₂ emission limits pertaining to the Walsh and Kelly, Incorporated, facility are found at 326 IAC 7-4.1-21.

III. What Are the Changes From the Current Rule?

In 2013, Walsh and Kelly, Incorporated replaced its aggregate drum dryer. The older aggregate drum dryer burner design capacity was rated at 120 million British thermal units

per hour (MMBtu/hr). The new aggregate drum dryer burner has a smaller design capacity, rated at 115 MMBtu/hr.

IDEM made an administrative change to update rule 326 IAC 7-4.1-21(b) to reference the new 115 MMBtu/hr aggregate drum dryer. Rule 326 IAC 7-4.1-21 provides SO₂ emission limits for the Walsh and Kelly, Incorporated aggregate drum dryer, and allows the unit limited use of waste oil as a back-up fuel. IDEM did not revise any of the requirements that apply to using waste oil as a fuel. The SO₂ emission limits of 42 pounds per hour and 25 tons per year remain unchanged.

EPA finds the change to rule 326 IAC 7-4.1-21 approvable.

IV. What Action is EPA Taking?

EPA is approving revisions to Indiana's SO₂ SIP which revise 326 IAC 7-4.1-21 for Walsh and Kelly, Incorporated, located in Griffith, Lake County, Indiana. The SIP revision will not result in an increase in SO₂ emissions at the facility because the emission limits remain the same.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective **[insert date 60 days after date of**

publication in the Federal Register] without further notice unless we receive relevant adverse written comments by **[insert date 30 days after date of publication in the Federal Register]**. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective **[insert date 60 days after date of publication in the Federal Register]**.

V. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Indiana regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

VI. Statutory and Executive Order Reviews.

Under the Clean Air Act (CAA), the Administrator is

required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect,

the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct

final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Emissions Reporting, Incorporation by reference, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: August 28, 2015.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.770, the table in paragraph (c) is amended by revising the entry for Rule 7-4.1-21 "Walsh and Kelly sulfur dioxide emission limitations" under the subheading entitled "Rule 4.1 Lake County Sulfur Dioxide Emission Limitations" under the heading entitled "Article 7. Sulfur Dioxide Rules" to read as follows:

§ 52.770 Identification of plan.

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(c) * * *

EPA-APPROVED INDIANA REGULATIONS

Indiana Citation	Subject	Indiana Effective Date	EPA Approval Date	Notes
* * * * *				
Article 7. Sulfur Dioxide Rules				
* * * * *				
Rule 4.1 Lake County Sulfur Dioxide Emission Limitations				
* * * * *				
7-4.1-21	Walsh and Kelly sulfur dioxide emission limitations	5/29/2015	[insert date of publication in the Federal Register], [insert Federal Register citation]	
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[FR Doc. 2015-22716 Filed: 9/10/2015 08:45 am; Publication Date: 9/11/2015]